

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 313

Introduced by Bolz, 29.

Read first time January 16, 2019

Committee: Executive Board

1 A BILL FOR AN ACT relating to treatment and corrections; to amend
2 sections 47-901, 47-902, 47-903, 47-904, 47-905, 47-907, 47-908,
3 47-911, 47-912, 47-913, 47-914, 47-915, 47-916, 47-917, 47-918,
4 47-920, 81-8,241, 81-8,244, 81-8,245, and 83-1,135.04, Revised
5 Statutes Cumulative Supplement, 2018; to rename the Office of
6 Inspector General of the Nebraska Correctional System Act; to
7 restate intent; to define and redefine terms; to provide the Office
8 of Inspector General of the Nebraska Correctional System with
9 authority to investigate regional centers; to provide duties for the
10 Division of Behavioral Health; to change provisions relating to
11 qualifications of the Inspector General; to require a report; to
12 harmonize provisions; and to repeal the original sections.
13 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 47-901, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 47-901 Sections 47-901 to 47-920 and section 11 of this act shall be
4 known and may be cited as the Correctional System and Mental Health
5 Facilities Oversight Act ~~Office of Inspector General of the Nebraska~~
6 ~~Correctional System Act.~~

7 Sec. 2. Section 47-902, Revised Statutes Cumulative Supplement,
8 2018, is amended to read:

9 47-902 (1) It is the intent of the Legislature to:

10 (a) Establish a full-time program of investigation and performance
11 review to provide increased accountability and oversight of the Nebraska
12 correctional system and the regional centers;

13 (b) Assist in improving operations of the Department of Correctional
14 Services ~~department~~ and the Nebraska correctional system and the
15 Department of Health and Human Services and the regional centers;

16 (c) Provide an independent form of inquiry for concerns regarding
17 the actions of individuals and agencies responsible for the supervision
18 and release of persons in the Nebraska correctional system. A lack of
19 responsibility and accountability between individuals and private
20 agencies in the current system make it difficult to monitor and oversee
21 the Nebraska correctional system; ~~and~~

22 (d) Provide an independent form of inquiry for concerns regarding
23 the actions of individuals and agencies responsible for the supervision,
24 treatment, and release of persons in the regional centers; and

25 (e) {d} Provide a process for investigation and review in order to
26 improve policies and procedures of the correctional system and the
27 regional centers.

28 (2) It is not the intent of the Legislature in enacting the
29 Correctional System and Mental Health Facilities Oversight Act ~~Office of~~
30 ~~Inspector General of the Nebraska Correctional System Act~~ to interfere
31 with the duties of the Legislative Auditor or the Legislative Fiscal

1 Analyst or to interfere with the statutorily defined investigative
2 responsibilities or prerogatives of any officer, agency, board, bureau,
3 commission, association, society, or institution of the executive branch
4 of state government, except that the act does not preclude an inquiry on
5 the sole basis that another agency has the same responsibility. The act
6 shall not be construed to interfere with or supplant the responsibilities
7 or prerogatives of the Governor to investigate, monitor, and report on
8 the activities of the agencies, boards, bureaus, commissions,
9 associations, societies, and institutions of the executive branch under
10 his or her administrative direction.

11 Sec. 3. Section 47-903, Revised Statutes Cumulative Supplement,
12 2018, is amended to read:

13 47-903 For purposes of the Correctional System and Mental Health
14 Facilities Oversight Act ~~Office of Inspector General of the Nebraska~~
15 ~~Correctional System Act~~, the following definitions apply:

16 (1) Administrator means a person charged with administration of:

17 (a) A a program, an office, or a division of the Department of
18 Correctional Services; ~~department or~~

19 (b) A program or an office of the Division of Behavioral Health; or

20 (c) A administration of a private agency;

21 (2) Correctional facility ~~Department~~ means a correctional facility
22 operated by the Department of Correctional Services;

23 (3) Division of Behavioral Health means the Division of Behavioral
24 Health of the Department of Health and Human Services;

25 (3) ~~Director~~ means ~~the Director of Correctional Services;~~

26 (4) ~~Division of Parole Supervision~~ means ~~the division created~~
27 ~~pursuant to section 83-1,100;~~

28 (4) (5) Inspector General means the Inspector General of the
29 Nebraska Correctional System and Mental Health Facilities appointed under
30 section 47-904;

31 (5) (6) Malfeasance means a wrongful act that the actor has no legal

1 right to do or any wrongful conduct that affects, interrupts, or
2 interferes with performance of an official duty;

3 (6) ~~(7)~~ Management means supervision of subordinate employees;

4 (7) ~~(8)~~ Misfeasance means the improper performance of some act that
5 a person may lawfully do;

6 (8) ~~(9)~~ Obstruction means hindering an investigation, preventing an
7 investigation from progressing, stopping or delaying the progress of an
8 investigation, or making the progress of an investigation difficult or
9 slow;

10 (9) ~~(10)~~ Office means the office of Inspector General of the
11 ~~Nebraska~~ Correctional System and Mental Health Facilities and includes
12 the Inspector General and other employees of the office;

13 (10) ~~(11)~~ Private agency means an entity that contracts with the
14 Department of Correctional Services or the Division of Behavioral Health
15 ~~department~~ or contracts to provide services to another entity that
16 contracts with such the department or division; ~~and~~

17 (11) ~~(12)~~ Record means any recording in written, audio, electronic
18 transmission, or computer storage form, including, but not limited to, a
19 draft, memorandum, note, report, computer printout, notation, or message,
20 and includes, but is not limited to, medical records, mental health
21 records, case files, clinical records, financial records, and
22 administrative records; and -

23 (12) Regional center means one of the state hospitals for the
24 mentally ill designated in section 83-305.

25 Sec. 4. Section 47-904, Revised Statutes Cumulative Supplement,
26 2018, is amended to read:

27 47-904 (1) The office of Inspector General of the ~~Nebraska~~
28 Correctional System and Mental Health Facilities is created within the
29 office of Public Counsel for the purpose of conducting investigations,
30 audits, inspections, and other reviews of the Nebraska correctional
31 system and the regional centers. The Inspector General shall be appointed

1 by the Public Counsel with approval from the chairperson of the Executive
2 Board of the Legislative Council and the chairperson of the Judiciary
3 Committee of the Legislature.

4 (2) The Inspector General shall be appointed for a term of five
5 years and may be reappointed. The Inspector General shall be selected
6 without regard to political affiliation and on the basis of integrity,
7 capability for strong leadership, and demonstrated ability in accounting,
8 auditing, financial analysis, law, management, public administration,
9 investigation, or criminal justice administration or other closely
10 related fields. No former or current executive or manager of the
11 Department of Correctional Services or the Department of Health and Human
12 Services department shall be appointed Inspector General within five
13 years after such former or current executive's or manager's period of
14 service with such ~~the~~ department. Not later than two years after the date
15 of appointment, the Inspector General shall obtain certification as a
16 Certified Inspector General by the Association of Inspectors General, its
17 successor, or another nationally recognized organization that provides
18 and sponsors educational programs and establishes professional
19 qualifications, certifications, and licensing for inspectors general.
20 During his or her employment, the Inspector General shall not be actively
21 involved in partisan affairs.

22 (3) The Inspector General shall employ such investigators and
23 support staff as he or she deems necessary to carry out the duties of the
24 office within the amount available by appropriation through the office of
25 Public Counsel for the office of Inspector General of the Nebraska
26 Correctional System and Mental Health Facilities. The Inspector General
27 shall be subject to the control and supervision of the Public Counsel,
28 except that removal of the Inspector General shall require approval of
29 the chairperson of the Executive Board of the Legislative Council and the
30 chairperson of the Judiciary Committee of the Legislature.

31 Sec. 5. Section 47-905, Revised Statutes Cumulative Supplement,

1 2018, is amended to read:

2 47-905 (1) The office shall investigate:

3 (a) Allegations or incidents of possible misconduct, misfeasance,
4 malfeasance, or violations of statutes or of rules or regulations of the
5 Department of Correctional Services or the Division of Behavioral Health
6 ~~department~~ by an employee of or a person under contract with such the
7 department or division or a private agency; and

8 (b) Death or serious injury in private agencies, ~~department~~
9 correctional facilities, regional centers, and other programs and
10 facilities licensed by or under contract with the Department of
11 Correctional Services ~~department~~. The Department of Correctional Services
12 and the Division of Behavioral Health ~~department~~ shall report all cases
13 of death or serious injury of a person in a private agency, ~~department~~
14 correctional facility or program, regional center, or other program or
15 facility licensed by the Department of Correctional Services ~~department~~
16 to the Inspector General as soon as reasonably possible after such the
17 department or division learns of such death or serious injury. The
18 department and division shall also report all cases of the death or
19 serious injury of an employee when acting in his or her capacity as an
20 employee of the department or as an employee of the division at a
21 regional center as soon as reasonably possible after the department or
22 division learns of such death or serious injury. The department and
23 division shall also report all cases when an employee is hospitalized in
24 response to an injury received when acting in his or her capacity as an
25 employee of the department or as an employee of division at a regional
26 center as soon as reasonably possible after the department or division
27 learns of such hospitalization. For purposes of this subdivision, serious
28 injury means an injury which requires urgent and immediate medical
29 treatment and restricts the injured person's usual activity.

30 (2) Any investigation conducted by the Inspector General shall be
31 independent of and separate from an investigation pursuant to sections

1 23-1821 to 23-1823.

2 (3) Notwithstanding the fact that a criminal investigation, a
3 criminal prosecution, or both are in progress, all law enforcement
4 agencies and prosecuting attorneys shall cooperate with any investigation
5 conducted by the Inspector General and shall, immediately upon request by
6 the Inspector General, provide the Inspector General with copies of all
7 law enforcement reports which are relevant to the Inspector General's
8 investigation. All law enforcement reports which have been provided to
9 the Inspector General pursuant to this section are not public records for
10 purposes of sections 84-712 to 84-712.09 and shall not be subject to
11 discovery by any other person or entity. Except to the extent that
12 disclosure of information is otherwise provided for in the Correctional
13 System and Mental Health Facilities Oversight Act ~~Office of Inspector~~
14 ~~General of the Nebraska Correctional System Act~~, the Inspector General
15 shall maintain the confidentiality of all law enforcement reports
16 received pursuant to its request under this section. Law enforcement
17 agencies and prosecuting attorneys shall, when requested by the Inspector
18 General, collaborate with the Inspector General regarding all other
19 information relevant to the Inspector General's investigation. If the
20 Inspector General in conjunction with the Public Counsel determines it
21 appropriate, the Inspector General may, when requested to do so by a law
22 enforcement agency or prosecuting attorney, suspend an investigation by
23 the office until a criminal investigation or prosecution is completed or
24 has proceeded to a point that, in the judgment of the Inspector General,
25 reinstatement of the Inspector General's investigation will not impede or
26 infringe upon the criminal investigation or prosecution.

27 Sec. 6. Section 47-907, Revised Statutes Cumulative Supplement,
28 2018, is amended to read:

29 47-907 (1) Complaints to the office may be made in writing. A
30 complaint shall be evaluated to determine if it alleges possible
31 misconduct, misfeasance, malfeasance, or violation of a statute or of

1 rules and regulations of:

2 (a) The Department of Correctional Services ~~the department~~ by an
3 employee of or a person under contract with the department or a private
4 agency; ~~or -~~

5 (b) The Division of Behavioral Health related to the regional
6 centers by an employee of or a person under contract with the division or
7 a private agency.

8 (2) All complaints shall be evaluated to determine whether a full
9 investigation is warranted.

10 (3) ~~(2)~~ The office shall not conduct a full investigation of a
11 complaint unless:

12 (a) The complaint alleges misconduct, misfeasance, malfeasance, or
13 violation of a statute or of rules and regulations described in
14 subsection (1) of this section ~~of the department~~;

15 (b) The complaint is against a person within the jurisdiction of the
16 office; and

17 (c) The allegations can be independently verified through
18 investigation.

19 (4) ~~(3)~~ The Inspector General shall determine within fourteen days
20 after receipt of a complaint whether the office will conduct a full
21 investigation.

22 (5) ~~(4)~~ When a full investigation is opened on a private agency that
23 contracts with the Department of Correctional Services or the Division of
24 Behavioral Health ~~department~~, the Inspector General shall give notice of
25 such investigation to such ~~the~~ department or division.

26 Sec. 7. Section 47-908, Revised Statutes Cumulative Supplement,
27 2018, is amended to read:

28 47-908 All employees of the Department of Correctional Services
29 ~~department~~, all employees of the Division of Parole Supervision, all
30 employees of the Division of Behavioral Health, and all owners,
31 operators, managers, supervisors, and employees of private agencies shall

1 cooperate with the office. Cooperation includes, but is not limited to,
2 the following:

3 (1) Provision of full access to and production of records and
4 information. Providing access to and producing records and information
5 for the office is not a violation of confidentiality provisions under any
6 statute, rule, or regulation if done in good faith for purposes of an
7 investigation under the Correctional System and Mental Health Facilities
8 Oversight Act ~~Office of Inspector General of the Nebraska Correctional~~
9 ~~System Act~~;

10 (2) Fair and honest disclosure of records and information reasonably
11 requested by the office in the course of an investigation under the act;

12 (3) Encouraging employees to fully comply with reasonable requests
13 of the office in the course of an investigation under the act;

14 (4) Prohibition of retaliation by owners, operators, or managers
15 against employees for providing records or information or filing or
16 otherwise making a complaint to the office;

17 (5) Not requiring employees to gain supervisory approval prior to
18 filing a complaint with or providing records or information to the
19 office;

20 (6) Provision of complete and truthful answers to questions posed by
21 the office in the course of an investigation; and

22 (7) Not willfully interfering with or obstructing the investigation.

23 Sec. 8. Section 47-911, Revised Statutes Cumulative Supplement,
24 2018, is amended to read:

25 47-911 (1) In conducting investigations, the office shall access all
26 relevant records through subpoena, compliance with a request by the
27 office, and voluntary production. The office may request or subpoena any
28 record necessary for the investigation from the Department of
29 Correctional Services or the Division of Behavioral Health ~~department~~ or
30 a private agency that is pertinent to an investigation. All case files,
31 licensing files, medical records, financial and administrative records,

1 and records required to be maintained pursuant to applicable licensing
2 rules shall be produced for review by the office in the course of an
3 investigation.

4 (2) Compliance with a request of the office includes:

5 (a) Production of all records requested;

6 (b) A diligent search to ensure that all appropriate records are
7 included; and

8 (c) A continuing obligation to immediately forward to the office any
9 relevant records received, located, or generated after the date of the
10 request.

11 (3) The office shall seek access in a manner that respects the
12 dignity and human rights of all persons involved, maintains the integrity
13 of the investigation, and does not unnecessarily disrupt ~~department~~
14 programs or services of the Department of Correctional Services or the
15 Division of Behavioral Health. When advance notice to an administrator or
16 his or her designee is not provided, the office investigator shall, upon
17 arrival at the ~~departmental~~ office, bureau, or division of the Department
18 of Correctional Services, correctional facility, office or bureau of the
19 Division of Behavioral Health, regional center, or private agency,
20 request that an onsite employee notify the administrator or his or her
21 designee of the investigator's arrival.

22 (4) When circumstances of an investigation require, the office may
23 make an unannounced visit to an a ~~departmental~~ office, a bureau, or a
24 division of the Department of Correctional Services, a department
25 correctional facility, an office or a bureau of the Division of
26 Behavioral Health, a regional center, or a private agency to request
27 records relevant to an investigation.

28 (5) A responsible individual or an administrator may be asked to
29 sign a statement of record integrity and security when a record is
30 secured by request as the result of a visit by the office, stating:

31 (a) That the responsible individual or the administrator has made a

1 diligent search of the office, bureau, division, private agency, ~~or~~
2 ~~department~~ correctional facility, or regional center to determine that
3 all appropriate records in existence at the time of the request were
4 produced;

5 (b) That the responsible individual or the administrator agrees to
6 immediately forward to the office any relevant records received, located,
7 or generated after the visit;

8 (c) The persons who have had access to the records since they were
9 secured; and

10 (d) Whether, to the best of the knowledge of the responsible
11 individual or the administrator, any records were removed from or added
12 to the record since it was secured.

13 (6) The office shall permit a responsible individual, an
14 administrator, or an employee of a ~~departmental office, bureau, or~~
15 ~~division, a private agency, or a department correctional facility~~ to make
16 photocopies of the original records within a reasonable time in the
17 presence of the office for purposes of creating a working record in a
18 manner that assures confidentiality.

19 (7) The office shall present to the responsible individual, ~~or the~~
20 ~~administrator,~~ or other employee of the ~~departmental office, bureau, or~~
21 ~~division, private agency, or department correctional facility~~ a copy of
22 the request, stating the date and the titles of the records received.

23 (8) If an original record is provided during an investigation, the
24 office shall return the original record as soon as practical but no later
25 than ten working days after the date of the compliance request.

26 (9) All investigations conducted by the office shall be conducted in
27 a manner designed to ensure the preservation of evidence for possible use
28 in a criminal prosecution.

29 Sec. 9. Section 47-912, Revised Statutes Cumulative Supplement,
30 2018, is amended to read:

31 47-912 (1) Reports of investigations conducted by the office shall

1 not be distributed beyond the entity that is the subject of the report
2 without the consent of the Inspector General.

3 (2) The office shall redact confidential information before
4 distributing a report of an investigation. The office may disclose
5 confidential information to the chairperson of the Judiciary Committee of
6 the Legislature or the Health and Human Services Committee of the
7 Legislature when such disclosure is, in the judgment of the Public
8 Counsel, desirable to keep such ~~the~~ chairperson informed of important
9 events, issues, and developments in the Nebraska correctional system or
10 the regional centers.

11 (3)(a) A summarized final report based on an investigation may be
12 publicly released in order to bring awareness to systemic issues.

13 (b) Such report shall be released only:

14 (i) After a disclosure is made to the chairperson pursuant to
15 subsection (2) of this section; and

16 (ii) If a determination is made by the Inspector General with the
17 chairperson that doing so would be in the best interest of the public.

18 (c) If there is disagreement about whether releasing the report
19 would be in the best interest of the public, the chairperson of the
20 Executive Board of the Legislative Council may be asked to make the final
21 decision.

22 (4) Records and documents, regardless of physical form, that are
23 obtained or produced by the office in the course of an investigation are
24 not public records for purposes of sections 84-712 to 84-712.09. Reports
25 of investigations conducted by the office are not public records for
26 purposes of sections 84-712 to 84-712.09.

27 (5) The office may withhold the identity of sources of information
28 to protect from retaliation any person who files a complaint or provides
29 information in good faith pursuant to the Correctional System and Mental
30 Health Facilities Oversight Act ~~Office of Inspector General of the~~
31 ~~Nebraska Correctional System Act~~.

1 Sec. 10. Section 47-913, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 47-913 The Department of Correctional Services ~~department~~ shall
4 provide the Public Counsel and the Inspector General with direct computer
5 access to all computerized records, reports, and documents maintained by
6 the department in connection with administration of the Nebraska
7 correctional system, except that the Public Counsel's and Inspector
8 General's access to an inmate's medical or mental health records shall be
9 subject to the inmate's consent.

10 Sec. 11. The Division of Behavioral Health shall provide the Public
11 Counsel and the Inspector General with direct computer access to all
12 computerized records, reports, and documents maintained by the division
13 in connection with administration of the regional centers, except that
14 the Public Counsel's and Inspector General's access to a patient's
15 medical or mental health records shall be subject to the patient's
16 consent.

17 Sec. 12. Section 47-914, Revised Statutes Cumulative Supplement,
18 2018, is amended to read:

19 47-914 (1) The Inspector General's report of an investigation shall
20 be in writing to the Public Counsel and shall contain recommendations.
21 The report may recommend systemic reform or case-specific action,
22 including a recommendation for discharge or discipline of employees or
23 for sanctions against a private agency. All recommendations to pursue
24 discipline shall be in writing and signed by the Inspector General. A
25 report of an investigation shall be presented to the Director of
26 Correctional Services or the Director of Behavioral Health ~~director~~
27 within fifteen days after the report is presented to the Public Counsel.

28 (2) Any person receiving a report under this section shall not
29 further distribute the report or any confidential information contained
30 in the report. The report shall not be distributed beyond the parties
31 except through the appropriate court procedures to the judge.

1 (3) A report that identifies misconduct, misfeasance, malfeasance,
2 violation of statute, or violation of rules and regulations by an
3 employee of the Department of Correctional Services, the Division of
4 Behavioral Health, ~~department~~ or a private agency that is relevant to
5 providing appropriate supervision of an employee may be shared with the
6 employer of such employee. The employer may not further distribute the
7 report or any confidential information contained in the report.

8 Sec. 13. Section 47-915, Revised Statutes Cumulative Supplement,
9 2018, is amended to read:

10 47-915 (1) Within fifteen days after a report is presented to the
11 Director of Correctional Services or the Director of Behavioral Health
12 ~~director~~ under section 47-914, he or she shall determine whether to
13 accept, reject, or request in writing modification of the recommendations
14 contained in the report. The Inspector General, with input from the
15 Public Counsel, may consider the director's request for modifications but
16 is not obligated to accept such request. Such report shall become final
17 upon the decision of the director to accept or reject the recommendations
18 in the report or, if the director requests modifications, within fifteen
19 days after such request or after the Inspector General incorporates such
20 modifications, whichever occurs earlier.

21 (2) Within fifteen days after the report is presented to the
22 director, the report shall be presented to the private agency or other
23 provider of correctional services or services at the regional center that
24 is the subject of the report and to persons involved in the
25 implementation of the recommendations in the report. Within forty-five
26 days after receipt of the report, the private agency or other provider
27 may submit a written response to the office to correct any factual errors
28 in the report. The Inspector General, with input from the Public Counsel,
29 shall consider all materials submitted under this subsection to determine
30 whether a corrected report shall be issued. If the Inspector General
31 determines that a corrected report is necessary, the corrected report

1 shall be issued within fifteen days after receipt of the written
2 response.

3 (3) If the Inspector General does not issue a corrected report
4 pursuant to subsection (2) of this section or if the corrected report
5 does not address all issues raised in the written response, the private
6 agency or other provider may request that its written response, or
7 portions of the response, be appended to the report or corrected report.

8 Sec. 14. Section 47-916, Revised Statutes Cumulative Supplement,
9 2018, is amended to read:

10 47-916 No report or other work product of an investigation by the
11 Inspector General shall be reviewable in any court. Neither the Inspector
12 General nor any member of his or her staff shall be required to testify
13 or produce evidence in any judicial or administrative proceeding
14 concerning matters within his or her official cognizance except in a
15 proceeding brought to enforce the Correctional System and Mental Health
16 Facilities Oversight Act ~~Office of Inspector General of the Nebraska~~
17 ~~Correctional System Act.~~

18 Sec. 15. Section 47-917, Revised Statutes Cumulative Supplement,
19 2018, is amended to read:

20 47-917 The Correctional System and Mental Health Facilities
21 Oversight Act ~~Office of Inspector General of the Nebraska Correctional~~
22 ~~System Act~~ does not require the Inspector General to investigate all
23 complaints. The Inspector General, with input from the Public Counsel,
24 shall prioritize and select investigations and inquiries that further the
25 intent of the act and assist in legislative oversight of the Nebraska
26 correctional system and the regional centers. If the Inspector General
27 determines that he or she will not investigate a complaint, the Inspector
28 General may recommend to the parties alternative means of resolution of
29 the issues in the complaint.

30 Sec. 16. Section 47-918, Revised Statutes Cumulative Supplement,
31 2018, is amended to read:

1 47-918 (1) On or before September 15 of each year, the Inspector
2 General shall provide to each member of the Judiciary Committee of the
3 Legislature, the Governor, and the Clerk of the Legislature a summary of
4 reports and investigations of correctional facilities and the Department
5 of Correctional Services made under the Correctional System and Mental
6 Health Facilities Oversight Act Office of Inspector General of the
7 Nebraska Correctional System Act for the preceding year. The summary
8 provided to the Clerk of the Legislature shall be provided
9 electronically. The summaries shall include recommendations and an update
10 on the status of recommendations made in prior summaries, if any. The
11 recommendations may address issues discovered through investigations,
12 audits, inspections, and reviews by the office that will (a) (1) increase
13 accountability and legislative oversight of the Nebraska correctional
14 system, (b) (2) improve operations of the Department of Correctional
15 Services department and the Nebraska correctional system, (c) (3) deter
16 and identify fraud, abuse, and illegal acts, and (d) (4) identify
17 inconsistencies between statutory requirements and requirements for
18 accreditation. The summaries shall not contain any confidential or
19 identifying information concerning the subjects of the reports and
20 investigations.

21 (2) On or before November 1, 2020, and on or before each November 1
22 thereafter, the Inspector General shall provide to each member of the
23 Judiciary Committee of the Legislature, the Health and Human Services
24 Committee of the Legislature, the Governor, and the Clerk of the
25 Legislature a summary of reports and investigations of regional centers
26 and the Division of Behavioral Health made under the Correctional System
27 and Mental Health Facilities Oversight Act for the preceding year. The
28 summary provided to the Clerk of the Legislature shall be provided
29 electronically. The summaries shall include recommendations and an update
30 on the status of recommendations made in prior summaries, if any. The
31 recommendations may address issues discovered through investigations,

1 audits, inspections, and reviews by the office that will (a) increase
2 accountability and legislative oversight of the regional centers, (b)
3 improve operations of the Division of Behavioral Health and the regional
4 centers, (c) deter and identify fraud, abuse, and illegal acts, and (d)
5 identify inconsistencies between statutory requirements and requirements
6 for accreditation. The summaries shall not contain any confidential or
7 identifying information concerning the subjects of the reports and
8 investigations.

9 Sec. 17. Section 47-920, Revised Statutes Cumulative Supplement,
10 2018, is amended to read:

11 47-920 Any person who has authority to recommend, approve, direct,
12 or otherwise take or affect personnel action shall not, with respect to
13 such authority:

14 (1) Take personnel action against an employee because of the
15 disclosure of information by the employee to the office which the
16 employee reasonably believes evidences wrongdoing under the Correctional
17 System and Mental Health Facilities Oversight Act ~~Office of Inspector~~
18 ~~General of the Nebraska Correctional System Act;~~

19 (2) Take personnel action against an employee as a reprisal for the
20 submission of an allegation of wrongdoing under the act to the office by
21 such employee; or

22 (3) Take personnel action against an employee as a reprisal for
23 providing information or testimony pursuant to an investigation by the
24 office.

25 Sec. 18. Section 81-8,241, Revised Statutes Cumulative Supplement,
26 2018, is amended to read:

27 81-8,241 The office of Public Counsel is hereby established to
28 exercise the authority and perform the duties provided by sections
29 81-8,240 to 81-8,254, the Correctional System and Mental Health
30 Facilities Oversight Act, and the Office of Inspector General of Nebraska
31 ~~Child Welfare Act, and the Office of Inspector General of the Nebraska~~

1 ~~Correctional System Act.~~ The Public Counsel shall be appointed by the
2 Legislature, with the vote of two-thirds of the members required for
3 approval of such appointment from nominations submitted by the Executive
4 Board of the Legislative Council.

5 Sec. 19. Section 81-8,244, Revised Statutes Cumulative Supplement,
6 2018, is amended to read:

7 81-8,244 (1)(a) The Public Counsel may select, appoint, and
8 compensate as he or she sees fit, within the amount available by
9 appropriation, such assistants and employees as he or she deems necessary
10 to discharge the responsibilities under sections 81-8,240 to 81-8,254. He
11 or she shall appoint and designate one assistant to be a deputy public
12 counsel, one assistant to be a deputy public counsel for corrections, one
13 assistant to be a deputy public counsel for institutions, and one
14 assistant to be a deputy public counsel for welfare services.

15 (b) Such deputy public counsels shall be subject to the control and
16 supervision of the Public Counsel.

17 (c) The authority of the deputy public counsel for corrections shall
18 extend to all facilities and parts of facilities, offices, houses of
19 confinement, and institutions which are operated by the Department of
20 Correctional Services and all county or municipal correctional or jail
21 facilities.

22 (d) The authority of the deputy public counsel for institutions
23 shall extend to all mental health and veterans institutions and
24 facilities operated by the Department of Health and Human Services and to
25 all regional behavioral health authorities that provide services and all
26 community-based behavioral health services providers that contract with a
27 regional behavioral health authority to provide services, for any
28 individual who was a patient within the prior twelve months of a state-
29 owned and state-operated regional center, and to all complaints
30 pertaining to administrative acts of the department, authority, or
31 provider when those acts are concerned with the rights and interests of

1 individuals placed within those institutions and facilities or receiving
2 community-based behavioral health services.

3 (e) The authority of the deputy public counsel for welfare services
4 shall extend to all complaints pertaining to administrative acts of
5 administrative agencies when those acts are concerned with the rights and
6 interests of individuals involved in the welfare services system of the
7 State of Nebraska.

8 (f) The Public Counsel may delegate to members of the staff any
9 authority or duty under sections 81-8,240 to 81-8,254 except the power of
10 delegation and the duty of formally making recommendations to
11 administrative agencies or reports to the Governor or the Legislature.

12 (2) The Public Counsel shall appoint the Inspector General of
13 Nebraska Child Welfare as provided in section 43-4317. The Inspector
14 General of Nebraska Child Welfare shall have the powers and duties
15 provided in the Office of Inspector General of Nebraska Child Welfare
16 Act.

17 (3) The Public Counsel shall appoint the Inspector General of the
18 ~~Nebraska~~ Nebraska Correctional System and Mental Health Facilities as provided in
19 section 47-904. The Inspector General of the ~~Nebraska~~ Nebraska Correctional System
20 and Mental Health Facilities shall have the powers and duties provided in
21 the Correctional System and Mental Health Facilities Oversight Act ~~Office~~
22 ~~of Inspector General of the Nebraska Correctional System Act.~~

23 Sec. 20. Section 81-8,245, Revised Statutes Cumulative Supplement,
24 2018, is amended to read:

25 81-8,245 The Public Counsel shall have the power to:

26 (1) Investigate, on complaint or on his or her own motion, any
27 administrative act of any administrative agency;

28 (2) Prescribe the methods by which complaints are to be made,
29 received, and acted upon; determine the scope and manner of
30 investigations to be made; and, subject to the requirements of sections
31 81-8,240 to 81-8,254, determine the form, frequency, and distribution of

1 his or her conclusions, recommendations, and proposals;

2 (3) Conduct inspections of the premises, or any parts thereof, of
3 any administrative agency or any property owned, leased, or operated by
4 any administrative agency as frequently as is necessary, in his or her
5 opinion, to carry out duties prescribed under sections 81-8,240 to
6 81-8,254;

7 (4) Request and receive from each administrative agency, and such
8 agency shall provide, the assistance and information the counsel deems
9 necessary for the discharge of his or her responsibilities; inspect and
10 examine the records and documents of all administrative agencies
11 notwithstanding any other provision of law; and enter and inspect
12 premises within any administrative agency's control;

13 (5) Issue a subpoena, enforceable by action in an appropriate court,
14 to compel any person to appear, give sworn testimony, or produce
15 documentary or other evidence deemed relevant to a matter under his or
16 her inquiry. A person thus required to provide information shall be paid
17 the same fees and travel allowances and shall be accorded the same
18 privileges and immunities as are extended to witnesses in the district
19 courts of this state and shall also be entitled to have counsel present
20 while being questioned;

21 (6) Undertake, participate in, or cooperate with general studies or
22 inquiries, whether or not related to any particular administrative agency
23 or any particular administrative act, if he or she believes that they may
24 enhance knowledge about or lead to improvements in the functioning of
25 administrative agencies;

26 (7) Make investigations, reports, and recommendations necessary to
27 carry out his or her duties under the State Government Effectiveness Act;

28 (8) Carry out his or her duties under the Office of Inspector
29 General of Nebraska Child Welfare Act. If any of the provisions of
30 sections 81-8,240 to 81-8,254 conflict with provisions of the Office of
31 Inspector General of Nebraska Child Welfare Act, the provisions of such

1 act shall control;

2 (9) Carry out his or her duties under the Correctional System and
3 Mental Health Facilities Oversight Act ~~Office of Inspector General of the~~
4 ~~Nebraska Correctional System Act~~. If any of the provisions of sections
5 81-8,240 to 81-8,254 conflict with the provisions of the Correctional
6 System and Mental Health Facilities Oversight Act ~~Office of Inspector~~
7 ~~General of the Nebraska Correctional System Act~~, the provisions of such
8 act shall control;

9 (10) Investigate allegations of violation of subsection (2) of
10 section 84-908 by an administrative agency pursuant to a complaint made
11 to his or her office and make a determination as to whether such
12 administrative agency has violated such subsection. The Public Counsel
13 shall report his or her determination in writing to the Governor, the
14 Secretary of State, the Attorney General, the Executive Board of the
15 Legislative Council, and the director or chief executive officer of the
16 agency. The report to the executive board shall be submitted
17 electronically; and

18 (11) Investigate and address the complaint and case of:

19 (a) Any juvenile committed to the custody of a youth rehabilitation
20 and treatment center; and

21 (b) Any juvenile released from a youth rehabilitation and treatment
22 center for reentry into the community, while that juvenile is subject to
23 the Community and Family Reentry Process and a service or treatment
24 program in which the juvenile may be involved after his or her release
25 from a youth rehabilitation and treatment center, whether that service or
26 program is administrated by the Office of Juvenile Services or a private
27 provider in the community. The Office of Juvenile Services and private
28 providers in the community shall cooperate with any investigation
29 conducted by the Public Counsel pursuant to this subdivision and provide
30 all documentation and information requested by the Public Counsel in
31 connection with such an investigation.

1 Sec. 21. Section 83-1,135.04, Revised Statutes Cumulative
2 Supplement, 2018, is amended to read:

3 83-1,135.04 Rules and regulations may authorize the Director of
4 Correctional Services to issue guidance documents and internal procedural
5 documents not inconsistent with law and rules and regulations. Such
6 guidance documents and internal procedural documents shall be made
7 available to the public at one public location and on the department's
8 web site unless the safety and security of a correctional institution
9 would be placed at imminent and substantial risk by such publication. If
10 any guidance document or internal procedural document is not made
11 available to the public, notice shall be given to the deputy public
12 counsel for corrections and to the Inspector General of the ~~Nebraska~~
13 Correctional System and Mental Health Facilities. The notice shall
14 identify all documents not publicly available by title, number of pages,
15 and date adopted. All guidance documents and internal procedural
16 documents shall be made available to any member of the Legislature upon
17 request. Security manuals shall be made available to the Legislature for
18 inspection upon request, but shall not be copied or removed from secure
19 locations as designated by the director.

20 Sec. 22. Original sections 47-901, 47-902, 47-903, 47-904, 47-905,
21 47-907, 47-908, 47-911, 47-912, 47-913, 47-914, 47-915, 47-916, 47-917,
22 47-918, 47-920, 81-8,241, 81-8,244, 81-8,245, and 83-1,135.04, Revised
23 Statutes Cumulative Supplement, 2018, are repealed.